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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/751,653	12/30/2000	Ali N. Saleh	M-7165-6C US	8875
33031	7590	02/17/2005	EXAMINER	
CAMPBELL STEPHENSON ASCOLESE, LLP 4807 SPICEWOOD SPRINGS RD. BLDG. 4, SUITE 201 AUSTIN, TX 78759			NGUYEN, HANH N	
			ART UNIT	PAPER NUMBER
			2662	

DATE MAILED: 02/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/751,653

Applicant(s)

SALEH ET AL.

Examiner

Hanh Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Response filed on 10/05/04.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 146-167 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,146-149,156-160 and 167 is/are rejected.
- 7) ☒ Claim(s) 150-155 and 161-166 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1, 146, 156, 157 and 167 are rejected under 35 U.S.C. 102(e) as being anticipated by **Hamami** (US Pat. No. 5,959,972).

In claims 1, 156 and 167, **Hamami** discloses, in Fig.2, main port 1 (a port failure of a first port) connected via a main link 60 (within a link) between ATM switch 1 (first node) and switch 2 (a second node) are failed (detecting a port failure within a link between a first node and a second node). Traffic transmitted on virtual circuit 68 is restored via paths 114, 65, 118 (VP is restored) over backup ports 2 (restoring traffic to a second port). Backup ports 2 (identifying second port) request their control softwares to disable their main ports, inform their

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peer about the main port failure (transferring a restoring message between the first and the second nodes). See col.5, lines 7-20; lines 47-55; col.6, line 58 to col.7, line 7.

In claims 146 and 157, Hamami discloses, in Fig.3, port/link redundancy setup (initiating a port request); establishing VCC between backup ports over backup link (provisioning the VP to the second port); duplicating traffic directed to main port to backup port (updating provisioning information in node data base). See col.5, line 57 to col.6, line 20.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 147, 148, 149, 158, 159 and 160 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Hamami** (US Pat. No. 5,959,972) in view of **Morales** (Pat. 5,987,526).

In claims 147, 148, 149, 158, 159 and 160, Hamami disclose the switch over backup ports occurs automatically and relative quickly. See col.4, lines 40-45. Hamami does not disclose the time to restore the virtual path is 10ms, less than 2ms, between 50ms and 250 ms. **Morales** discloses the time to restore the virtual path is 10 milliseconds (less than 2 second), between 50 milliseconds (50 milliseconds) and 250 milliseconds. See col.4, lines 15-30. Therefore, it would have been obvious to one ordinary skill in the art modify the Hamami to restore VPs as time requirements of claimed limitation.

Allowable Subject Matter

Claims 150-155 and 161-166 are objected over the prior art.

Response to Arguments

Applicant's arguments filed on 10/05/04 have been fully considered but they are not persuasive.

Applicant believes, from examiner statements in claim 1 that, "traffic corresponding to VC 68 is restored via paths 114, 65 and 118 over backup port 2" and the claimed "restoring the virtual path to a second port" are distinct.

Referring to Hamami, VC 68 is established between switches 1 and 2 over main link 60 and through ports 1. In similar, VC 65 is established over backup link 62 and through back up ports 2 (see col.5, lines 40-55). Under normal operating condition, traffic is sent between switches 1 and 2 via the main link 60. When a failure occurs on either of the two ports on either side of the main link, the traffic originally traveling over the main link is switched to the backup link automatically. (see col.4, lines 40-50). Therefore, virtual path is restored by switching the traffic transmitted on VC 68 of main link 60 to VC 65 of backup link 62.

Therefore, examiner believes that Hamami overcomes the claimed limitations.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hanh Nguyen whose telephone number is 571 272 3092. The examiner can normally be reached on Monday, Wednesday, Thursday from 7AM to 6PM; Tuesday, Friday from 2PM to 8PM. The examiner can also be reached on alternate

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hassan Kizou, can be reached on 571 272 3088. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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A handwritten signature in black ink, appearing to read 'HNguyen'.

HANH NGUYEN
PRIMARY EXAMINER